S.B.Civil Second Appeal No.434/06
Panna Lal
vs.
Gram Panchayat, Bhakri through Sarpanch

Date of Order: 21.11.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Ranjeet Joshi for the appellant.

Heard learned counsel for the appellant.

The appellant has challenged the concurrent findings of fact recorded by the two courts below in the judgment and decrees dated 16.3.2002 and 31.10.2006.

The plaintiff's case was that the plaintiff was in possession of the suit property since the time of his fore-father, however, since last 10 years only, he started permanent living on the plot in dispute. It was also contended that the suit property was given to them by the erstwhile Jagirdar. The plaintiff claimed that he may be declared to be the owner of the property and the respondent be restrained from evicting the plaintiff from the suit property.

The trial court after appreciation of evidence held that the plaintiff failed to prove even his old possession, apart from the fact that he failed to prove the title to the property as contended by the plaintiff that the property was given to his forefather by the erstwhile Jagirdar. The trial court dismissed the suit of the plaintiff vide judgment and

decree dated 16.3.2002. The first appellate court, after considering the application of the plaintiff-appellant, filed under Order 41 Rule 27, C.P.C. rejected the said application by which the plaintiff sought permission to produce additional evidence. The plaintiff sought permission to produce additional evidence a private book containing the pedigree and one copy of the decision of the Gram Panchayat dated 21.7.1980. The decision of the Gram Panchayat was given in the case of Gram Panchayat vs. Mansukh. The plaintiff, with the help of that private document, tried to show that he is descendant of Mansukh. The first appellate court found that this was not the pleading of the plaintiff nor the case set up by the plaintiff and no reason has been given by the plaintiff why the said document has not been produced before the court below. The first appellate court dismissed the application under Order 41 Rule 27, CPC. and upheld the finding recorded by the trial court.

The learned counsel for the appellant vehemently submitted that the appellant is in possession of the suit property and he sought permission from the first appellate court to produce the document which was denied. The appellant is descendant of Mansukh and according to the learned counsel for the appellant, the appellant was in possession of the suit property since last more than 30 years.

It appears from the reasons given by the two courts below that both the courts below recorded concurrent findings of fact against the

plaintiff-appellant and the courts below held that the respondent Gram Panchayat has legal right to evict the plaintiff from the suit property by following due process of law.

I do not find any illegality in the judgments of the courts below and hence there is no merit in this appeal and the same is hereby dismissed.

(PRAKASH TATIA),J.

mlt.